

GOODWIN | PROCTER

Anna-Marie L. Tabor  
617.570.1619  
atabor@  
goodwinprocter.com

Goodwin Procter LLP  
Counselors at Law  
Exchange Place  
Boston, MA 02109  
T: 617.570.1000  
F: 617.523.1231

February 8, 2007

**FILED VIA CM/ECF**

Clerk of Court  
U.S. District Court, District of Massachusetts  
Federal Building and Courthouse  
1550 Main Street  
Springfield, MA 01103

**Re: Arise for Social Justice, et al. v. City of Springfield, et al.**  
**Civil Action No. 05-30080-MAP**

Dear Sir or Madam:

Please find attached to this letter a substituted Trial Affidavit of Cheryl Coakley-Rivera (the "Affidavit"). This substituted Affidavit should replace the version that was filed on Friday, February 2, 2007, and that appears in the docket as document number 94.

The substituted Affidavit changes paragraph 43 so that it now reads, "approximately July 2004," rather than "2005".

Thank you for your assistance with this matter.

Very truly yours,



Anna-Marie L. Tabor

Attachment

cc: Edward Pikula, Esq. (w/attachment, via CM/ECF)

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on February 8, 2007.

/s/ Anna-Marie L. Tabor  
Anna-Marie L. Tabor (BBO #662364)

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

ARISE FOR SOCIAL JUSTICE; OISTE?;  
NEW ENGLAND STATE-AREA  
CONFERENCE OF THE NAACP; REV.  
TALBERT W. SWAN, II; GUMERSINDO  
GOMEZ; FRANK BUNTIN; RAFAEL  
RODRIQUEZ; and DIANA NURSE,

Plaintiffs,

Civil Action No. 05-30080 MAP

v.

CITY OF SPRINGFIELD and SPRINGFIELD  
ELECTION COMMISSION,

Defendants.

**TRIAL AFFIDAVIT OF CHERYL COAKLEY-RIVERA**

I, Cheryl A. Coakley-Rivera, make the following declaration based on personal knowledge:

1. I currently live in Springfield, Massachusetts and, with the exception of college, have lived here my entire life. My polling place is in the Brightwood neighborhood, the Riverview Administration Building, in Ward 1.

2. I represent the Tenth Hampden District in the House of Representatives for the Commonwealth of Massachusetts, and have done so since January 1999.

3. Prior to my election to the Massachusetts House of Representatives, I was in private law practice here in Springfield. I received my undergraduate degree in 1988 from Northeastern University in Boston and my law degree in 1995 from Western New England School of Law.

4. The election wards contained within my legislative district are: Ward 1 (all precincts); Ward 3 (precincts B, C, F, G and H); and Ward 6 (precincts A, E, and G). Having grown up in Springfield, spent the early years of my professional life here and now representing a portion of the city in the Massachusetts House of Representatives for the past eight years, I have become very familiar with the demographics, population trends, and voting patterns and behavior within my district and the city in general. I also am familiar with Springfield's at-large system for selecting its City Council and School Committee.

5. My district is predominantly Hispanic. I have overwhelming support among Hispanic voters. In precincts in my district that have a lower proportion of Hispanic voters, my support is somewhat weaker.

6. The city's at-large election system disadvantages people of color by making it virtually impossible for them to be elected to the City Council or School Committee. There have been many Hispanic candidates for City Council and School Committee with strong support among Hispanic voters who failed to win because they did not get a significant percentage of the white vote, including Gumersindo Gomez, Alex Cortes, Orlando Santiago, Edgar Alejandro, and Rafael Nazario.

7. I know Hispanic residents of Springfield who have been discouraged from running for City Council or School Committee because they believe that it would be virtually impossible for them to win.

8. Jose Tosado's success in Springfield politics is exceptional. He wins because he has a strong base of white voter support from his neighborhood. This, combined with the support he has in my district, is what allows him to win.

9. It is crucial for minority voters to use bullet voting in municipal elections so that they can elect their preferred candidates. In this respect, the at-large system pits Latino voters and African American voters against each other. Latinos bullet vote for their preferred candidates, who are Latino; while African American voters vote for their preferred candidates and not for the Latino-preferred candidates.

10. Despite the fact that the system pits African American and Latino voters against each other, Tosado still receives stronger support from the area of the City that is predominantly African American than he does from many of the City's predominantly white communities (not including the neighborhood where he lives, which consistently supports him). Bud Williams receives stronger support from the predominantly Hispanic areas of the City than he does from many predominantly white areas of the City.

11. A lot of Latino voters bullet vote for Jose Tosado alone. This is because they are misinformed about the nature of the at-large elections for City Council. They think that they only have one vote, as they do in my election. They therefore vote once only for the Latino candidate who is most well known to them – Jose Tosado, who is well known because he is an incumbent Councilor.

12. Bilingual poll officials, and those representative of the racial diversity of our city, are important to ensure that voters of color and those with limited English skills can effectively participate in the electoral process. Because of the language and cultural issues, the process itself can be very intimidating to voters. Limited English-speaking voters who have gone to the polls and have had difficulty because poll officials do not speak Spanish, or who have faced hostile or rude treatment, may never return to vote again. Potential voters who have limited

English skills are often unsure about what they may encounter at the polls, and thus err on the side of not voting.

13. Throughout my years as State Representative, I have talked with numerous voters who have had trouble at the polls because of the lack of Spanish-speaking poll officials. I have talked to many poll officials who have told me there need to be Spanish-speaking poll officials working at their polling place to help voters who need language assistance; Forest Park is one area that comes to mind.

14. I have also spoken with many Hispanic individuals who have limited English abilities and are registered to vote, but fail to turn out because of the lack of information about the election, the candidates, where to go, and what to do, and because there is no assurance that there will be anyone available at the polls to help them in their native Spanish language should they not understand the process or have trouble with the ballot.

15. Over the years, there has been very little dissemination of election information by the City, if any. I look through each issue of the Spanish newspapers, El Pueblo Latino and El Perdico, and listen to the two Spanish radio stations, 1270 and 1490 AM. I have never seen or heard anything published or produced by the City in either of those types of media regarding elections. I did not see or hear any City announcements in the Spanish-language media in 2006.

16. Based on conversations I have had with numerous Springfield residents, my knowledge of the area, and current trends here and nationally, I believe that registration and turnout rates among Hispanics would significantly increase if there were more bilingual poll officials working on election day and if more information was disseminated in Spanish by the City prior to and on election day.

17. I also believe that turnout among Hispanic voters would increase if the City used districts to elect the City Council and School Committee, instead of using an at-large system. The closer people are to the candidates, the more they participate.

18. Turnout is low among voters in my district in municipal elections for a number of reasons. Voters who live in my district have, on average, a much lower level of educational attainment than voters who live in parts of the City where turnout is higher. Employment opportunities are not nearly as good for voters in my district, and their access to secure affordable housing is limited. As a result of these factors and others, residents who live in my district tend to be more transient than residents in other parts of the City. This makes it more difficult for them to vote because of the requirements that they re-register (if they previously lived outside Springfield) or notify the Elections Department of their new address each time they move. These factors affect turnout among all voters of all races in my district.

19. The low voter turnout among voters in my district is not a function of the fact that many are Hispanic, or that many are from Puerto Rico. Puerto Rican culture places a high value on voter participation. Voter turnout is so high in Puerto Rico that the island practically shuts down on Election Day.

20. Since I have been a State Representative, I have heard numerous complaints from my constituents and other concerned citizens of Springfield regarding the election process. On many occasions over the years, I have brought election-related issues to the attention of city officials, including officials in the elections office and representatives of the Mayor's office. Some issues have been addressed by the City; others have gone unresolved.

21. Such issues I have raised with the City include: the need to hire full-time bilingual staff in the elections office who have contact with the minority community; the need to

appoint a Hispanic Elections Commissioner; the increased need for bilingual poll officials throughout the city to provide language assistance to voters; the importance of training those bilingual poll officials; and the unacceptable rude, hostile, and unwelcome treatment of minority voters both inside and outside the polling place.

22. Within the last several years, the City did address two particular issues I had raised: they hired a full-time bilingual employee in the elections office who had contacts for outreach in the Hispanic community, and they appointed the first-ever Hispanic Elections Commissioner. While the City deserves credit for such action, the fact remains that they did not take such steps on their own, but rather in response to my continued, external pressure on them to do so.

23. However, despite repeated notice over a period of time, the City has not rectified many of the concerns articulated above. For instance, up until the U.S. Department of Justice filed suit against the City in 2006, the City never made any effort to recruit bilingual poll officials. It was only through the foresight and leadership of the New North Citizen's Council, a community advocacy group serving the Hispanic community in the North End, that Spanish-speaking, bilingual poll officials were recruited to work the polls on election day. The City did not contact and encourage those officials; the NNCC was responsible. Interestingly, Ward 1 is the only ward in the city, with few exceptions, to have had bilingual poll officials regularly in the last several elections, despite the fact that a strong majority of the Hispanic voting age population of the city now resides outside of Ward 1.

24. Likewise, training of bilingual poll officials has been nonexistent. During the 2004 election year, this issue came to a head. Leading into the general election, I received complaints that poll officials in Ward 1 - bilingual or otherwise - were told by the City that they



could not work the general election if they had not received official training, regardless of whether they had worked the primary. However, the City had also stated that it did not have time to provide such training prior to the election. Because the effect of this policy would prohibit most bilingual poll officials from working in Ward 1, I was compelled to get involved. I stressed the need for the City to provide training on both elections procedures and the provision of language assistance. Finally, after I had numerous discussions with the elections office on this matter, Election Commissioner John Ramirez ultimately provided training.

25. Additionally, minority voters in the City of Springfield continue to experience rude, hostile and unwelcome treatment at the polls that suppresses their desire to participate fully in the electoral process. Based on the complaints I have received, this treatment may very well result from the lack of bilingual poll officials, cultural insensitivity, or merely lack of official training on proper election procedures and language assistance.

26. While I believe Kathy Fleury in the elections office has tried to make some progress regarding some of these issues in the last year, it seems that the rest of City Government does not understand or agree with the need to reach out to the Hispanic or other traditionally minority communities within the City of Springfield.

27. Since I was elected in 1998, only one City Councilor has resided in my district: Bruce Stebbins, who was elected in 2005. Stebbins is not typical of the residents in my district. He lives in a very affluent area of Ward 1, in the townhouses on Mattoon Street. He moved to Springfield relatively recently. He was formerly a School Committee member in East Longmeadow. In getting elected, his support comes from the same areas as other white City Councilors and not from Ward 1, which is predominantly Hispanic.

28. Because the interests of my district are not represented on the City Council or the School Committee, the City Council and School Committee fail to address issues that are important to my constituents. They address other issues in ways that are harmful to my constituents.

29. Because the interests of my district are not represented on the City Council or School Committee, I often find myself trying to intervene on the district's behalf in city issues, including zoning, policing, and education. When I describe this involvement to my colleagues in the House of Representatives, they respond with surprise and indicate that they are not similarly involved in municipal government.

30. For example, the concentration of billboards in my district is higher than the concentration elsewhere in the city. In 2001, when I first took up the issue with the City Council, my district had 107 of the 247 billboards in the city. That year, I served on a city-wide Billboard Ordinance Review Committee to consider options for regulating new billboards. At that time, there was no limit on the number of billboards that could be erected in Springfield. I believe that this lack of regulation was due to the fact that the areas most affected by the billboards were not represented on the City Council.

31. I believe that my intervention played an important role in the passage of an ordinance in 2002 limiting the total number of billboards in Springfield to 250.

32. If my district had been represented on the City Council, it would not have been necessary for me to speak to the City Council about billboards in my district, because their City Councilor would have been able to speak on their behalf.

33. I receive complaints from constituents about a lack of effective policing in my district.

34. Beginning around 2001, young people regularly engaged in drag racing along Main Street in the North End. The police did not stop the offenders.

35. In 2003, the Governor signed into law a home rule bill that I co-sponsored that gave Springfield police the power to confiscate offenders' cars prior to holding a forfeiture hearing. Soon thereafter, the drag racing stopped. Again, I believe that my intervention played an important role in addressing this issue. Furthermore, my intervention would not have been necessary if my district had been represented on the City Council.

36. There are four senior centers in Springfield, but none were located in my district until late 2006. That change happened because I had been requesting that a senior center be placed in my district for years. Money was allocated for the senior center by the state.

37. My district contains a disproportionate amount of Springfield's industrial development and environmental hazards. This development is more easily accomplished in my district, because there is no one on the City Council to speak on my constituents' behalf with respect to zoning issues. The bus terminals for Peter Pan and the Pioneer Valley Transit Authority are located in my district, and Peter Pan also maintains a repair facility there. There is a very high concentration of auto repair shops. The recycling center is located in my district. My district also contains a large number of warehouses that serve as the center of the City's trucking industry. My district contains a junkyard, and the Chicopee jail is located within a one mile radius of my district.

38. There are unusually high principal turnover rates at three schools located in my district – the Germán Gerena Community School, the Chestnut Accelerated Middle School, and the Brightwood School. All of these schools have performed extremely poorly on the MCAS, and two of them were looked at to potentially be taken over by the State Department of

Education. In the last five years, there have been approximately fifteen different principals and vice principals at these three schools. A large number of the students at these schools live in my district, and the turnover rates are a serious concern among my constituents. Their concern is growing because as the busing era ends, an even greater number of children in the district are attending these three schools. I believe that the School Committee has neglected this problem because none of the School Committee members are from my district.

39. African American and Hispanic residents across the city share common interests on many issues, including poverty reduction, housing quality, city services, health care, and the frequency of asthma and diabetes.

40. I have observed African American and Hispanic residents who live in the same Springfield neighborhoods working together when they believe that the City Council is not being responsive to their neighborhoods' needs. For example, African American and Hispanic residents work together to improve housing quality, to push for sidewalk and street repairs, and to urge the city to demolish condemned buildings.

41. I have reviewed the list of 17 neighborhoods identified by the City in connection with this case. I do not believe that this list is a complete or accurate listing of the neighborhoods with which Springfield residents identify. I do not believe that a shift to a district-based system would have any effect on the role that these neighborhoods play in City life. In fact, a district-based system would eliminate the dominance that certain neighborhoods currently play in Springfield politics. Ward 7 in particular is home to several City Council and School Committee members.

42. I have personally complained to Mayor Ryan about racially insensitive remarks made by his Chief of Staff, Michelle Webber. In 2004, I called to speak with the Mayor and was

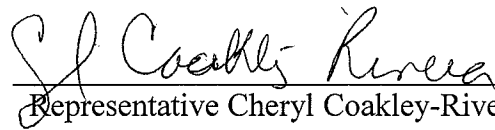
told by Webber that he was meeting with a “towel head.” I never had heard this term before and I asked her what she meant. She explained that the Mayor was meeting with a leader from the Muslim community to discuss a recent incident in which a Muslim business owner had been stabbed to death at his store. There was a lot of concern that this incident had been racially-motivated.

43. Shortly after this phone call, in approximately July 2004, two African American city employees complained to me about other insensitive remarks made by Webber. While in the Mayor’s office, Webber told these two employees that she would not attend the Puerto Rican Day Festival because she did not want to catch AIDS.

44. I complained to the Mayor about these incidents. To my surprise, he subsequently promoted Webber from his Aide to his Chief of Staff.

45. More recently, in 2006, an employee in the Springfield Housing Department complained to me that Ms. Webber referred to an African American employee and a Hispanic employee as “morons,” and advised someone with a question to consult a white employee instead.

Signed under penalties of perjury, this 6 day of February, 2007.

  
Representative Cheryl Coakley-Rivera

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on February 8, 2007.

/s/ Anna-Marie L. Tabor  
Anna-Marie L. Tabor (BBO #662364)